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Forty-seventh session

SUMMARY RECORD OF THE 1214th MEETINGHeld at Headquarters, New York, on
Friday, 26 March 1993, at 10 a.m.Chairman: Mr. ANDO

later: Mr. EL-SHAFEI

CONTENTSConsideration of reports submitted by States parties under article 40 of the
Covenant (continued)Third periodic report of the Dominican Republic (continued)

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued) (CCPR/C/70/Add.3)

Third periodic report of the Dominican Republic (continued)

1. At the invitation of the Chairman, Mr. Pichardo Olivier and Mrs. Abreu de Polanco (Dominican Republic) took places at the Committee table.
2. The CHAIRMAN said that the Committee would continue consideration of section I of the list of issues.
3. Mr. PICHARDO OLIVIER (Dominican Republic) said that his Government shared the concern about the situation of Haitian nationals in the Dominican Republic. It had been reported that they were recruited in Haiti by the Dominican police and held under conditions of slavery to perform forced labour in the Dominican Republic. As a result of widespread poverty and the political situation in Haiti in recent years there had been massive emigration from Haiti to the Dominican Republic, a country which also suffered from poverty, overpopulation and unemployment and bad health, education and housing problems. No exact figure was available, but an estimated 500,000 Haitians lived in the Dominican Republic. Only a small portion of that number worked in the sugar-cane fields; the rest were employed in the same areas as Dominicans. There was no denying that illegal workers were vulnerable to exploitation. However, slavery was not practised in the Dominican Republic. Furthermore, there was no proof that Haitians had been recruited by Dominicans in Haiti: they had come to the Dominican Republic of their own free will in search of a better life. Their abuse by unscrupulous employers did not stem from any Government policy. In recent years, sugar production had dropped considerably as a result of low commodity prices on the international market. Much of the land had been converted to other crops and the remaining sugar-cane fields were undergoing mechanization with assistance from the International Labour Organisation (ILO). Many Haitian sugar-cane cutters were beginning to work with other crops and in construction. With regard to the living conditions of sugar industry workers, it should be noted that Dominicans shared the same conditions as Haitians. ILO had sent a delegation to assist in the modernization of workers' housing and the provision of safe drinking water and electricity. In any event, because of mechanization, the jobs in question would be gradually phased out.
4. The flow of Haitian nationals to the Dominican Republic was largely due to political and economic problems in Haiti; the Dominican Republic was the most easily accessible State. It had accepted the Haitians and had given them refugee status in conformity with the Convention on the Status of Refugees. The problem would be solved only when Haiti achieved a solution to its own difficulties.
5. Mrs. ABREU de POLANCO (Dominican Republic) said that there was no denying that the working and living conditions of sugar-cane cutters were poor, but there had been significant improvement since 1991 because of her Government's policy of working with ILO, which had taken an interest in the situation. It had been reported that Haitian minors working in the Dominican Republic had been

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repatriated. Many Haitian sugar-cane workers brought their children with them to help; when they were informed that their children could not work, they generally preferred to return home. The situation had improved, however, and Ministry of Labour Statistics showed that fewer than 10 per cent of workers in the sugar-cane industry were minors. Wages, too, had improved; they were no longer paid in coupons, but in cash under the supervision of Labour Department inspectors. In fact, some sugar-industry workers earned more than some urban workers. Eleven labour inspectors continuously visited sugar mills and cane fields to verify that proper labour practices were followed.

6. As stated in the earlier report, Dominican workers lived in barracks (barracones) under the same conditions as Haitian workers. Those conditions had improved, however, as a result of the efforts of private organizations and the Ministry of Labour. As mentioned at the previous meeting, a decree had been issued (Decree No. 417-90) with a view to regularizing the situation of Haitian workers and more than 33,000 temporary work permits had been issued. Despite its own problems with poverty, the Dominican Republic had offered support to its Haitian brothers and had absorbed many of them into the workforce, often depriving Dominican nationals of employment.

7. With regard to communication No. 193/1985, the Minister for Foreign Affairs had received no documentation on that case to date. Since the Government strictly observed any deadlines established by the Committee, its failure to respond was due no doubt to a lack of communication.

8. As noted in the report, the Office of the Procurator-General was the body which had competence to ensure the protection and promotion of human rights. Non-governmental organizations such as the National Human Rights Union and local human rights committees transmitted reports of alleged human rights abuses to the Government, which attempted to investigate them. Such organizations had absolute freedom to conduct their activities.

9. Mr. MAVROMMATIS had stated that 400,000 Haitian minors were working in the Dominican Republic. The figure had never been as high as that, but, as a result of Government efforts to regularize the situation, the number of children working in the cane fields had dropped considerably.

10. With regard to violence against women, most such incidents involved domestic disputes, and women were usually reluctant to take any legal action. The statistics were not significant. As the report mentioned, women enjoyed many privileges and played a major role in the economic life of the country.

11. With regard to the repatriation of Haitian nationals under Presidential Decree No. 233-91 there had indeed been some incidents of excesses on the part of the police. All those involved, however, had been brought to trial. Given the history of military rule, the current civilian Government had to exercise increased vigilance over the police forces. When the police committed excesses, they were brought to justice and suffered the full consequences of their actions.

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12. Mr. PRADO VALLEJO said it was reported that Haitians were repatriated by the police without being allowed to take their personal property or to see their families. That seemed to him to be inhuman and degrading treatment. Although he realized that it was not a Government policy, it was apparently a police policy, and he would like to know what steps the Government was taking to control the police. Apparently as a result of Decree No. 417-90, Haitian workers also required permits, which were rarely issued, in order to change jobs or location, a practice which violated basic human rights.

13. Mr. MAVROMMATIS said that he had mentioned that 400,000 minors, not only Haitian minors, were working in the Dominican Republic. Only 11 inspectors to monitor such a large number was clearly inadequate.

14. The Dominican representative's reply about the position of the International Covenant on Civil and Political Rights in the legal system had been incomplete. The Committee had been informed that, while the Covenant took precedence over domestic legislation, its provisions might not be applied unless they were invoked. Judges must, however, apply the law which took precedence. In paragraph 107 of the report, the Government admitted that discrimination between legitimate and natural children was practised in respect of inheritance rights. Again, in paragraph 108, it stated that some of the legislation in force was not in keeping with the international covenants or instruments which had become part of internal law. He would therefore like to know the true status of the Covenant in the internal law of the Dominican Republic.

15. Mr. BRUNI CELLI said that the history of the relationship between the Dominican Republic and its neighbour, Haiti, could explain some of the recent developments. Although there was poverty in the Dominican Republic, conditions in Haiti were worse, and it was thus natural that Haitians should travel there in search of a better life. Most immigration was illegal and outside Government control, but there was some complicity between the Haitian and Dominican authorities in that regard. Indeed, illegal workers were vulnerable to exploitation throughout the world. A country had the right to regulate the foreign population in its territory, but in so doing, it must respect its international and legal commitments. Working conditions throughout the sugar industry were poor, but it must be noted that the State was the main employer. The Dominican Government had stated that illegal workers could be expelled on the grounds that they had no papers, but many such workers held identity documents issued by the State-run sugar company. Since the problem was directly related to political events in Haiti, he wondered what action would be taken by the Dominican Government if the former Government of Haiti was restored.

16. Mr. DIMITRIJEVIĆ said that the provisions of the Covenant appeared to have been misinterpreted where the issue of reciprocity was concerned. According to paragraph 27 of the report, the Civil Code granted to aliens the same civil rights as those established for nationals of the Dominican Republic under treaties by which the country of the alien granted those rights to Dominican

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nationals, on the basis of the principle of reciprocity. At the same time, the political rights of aliens could be limited. Since not all civil rights were necessarily protected in traditional civil codes, and some, such as freedom of expression, could be construed as either civil or political, the Committee needed to know which rights were protected in the Civil Code and were subject to reciprocity, in order to determine whether aliens did in fact enjoy the same civil rights as nationals. The indications given by the delegation of the Dominican Republic that the Civil Code might be revised were not in themselves satisfactory, since the issue of reciprocity could always be waived.

17. Noting that Presidential Decree No. 233-91 ordered the repatriation of those Haitian workers who were aged over 60 and under 16, he wondered whether the Dominican authorities considered age to be an acceptable basis for discrimination, contrary to the provisions of the Covenant. Furthermore, it was inevitable that when large numbers of people were being repatriated irregularities would occur, as a result of incompetence or ill will on the part of officials. He asked what procedures were available to victims to obtain an effective remedy, in accordance with the provisions of article 2, paragraph 3 (a), of the Covenant.

18. Mr. El-Shafei (Vice-Chairman) took the Chair.

19. Mr. AGUILAR said he was concerned by the information that, although Presidential Decree No. 233-91 had been suspended, it theoretically remained in force. The Committee felt that certain provisions of the Covenant were breached by the effects of the Decree relating not only to the repatriation of Haitians, but also to the treatment accorded to them in the process. It was widely felt that the Haitians concerned had been not merely repatriated, but forcibly thrown out of the Dominican Republic. He wished to know, therefore, whether the Decree would be reinstated in the event that democracy was restored in Haiti. In the light of other developments within the system of the Organization of American States (OAS), it appeared as if the suspension of the Decree was tantamount to support by the Dominican Government for the coup regime in Haiti.

20. In addition, he noted that there were at least 12,000 Haitians working illegally in the Dominican Republic and wondered whether there was a State policy determining the conditions of their employment. The identity of their employer was of no interest to the Committee: its concern was to ensure that the conditions under which they worked were acceptable. He had the impression that the authorities were renouncing responsibility for the matter and that some of the provisions of the Covenant had been violated.

21. Turning to the case addressed in communication No. 193/1985, involving a Dominican national, he noted that the matter had come before the General Assembly in 1990, at which time a representative of the Dominican Republic had been present and that it had been discussed during the Committee's session in 1991, following which the Dominican Republic had been apprised of its views. To date there had been no response from the Dominican authorities.

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22. Mr. NDIAYE recalled that in March 1990 he had reported to the Committee on investigations by a group of experts of ILO into the treatment accorded by the authorities to Haitians in the Dominican Republic. In his view, the practice of forced labour was attested in the Dominican Republic and the reports by ILO had found exploitation and unfair treatment. The response of the Dominican authorities to the allegations, which concerned not isolated cases but well-substantiated and systematic practices, had been very evasive. Now, some three years later the Committee found itself at a standstill: indeed, conditions in the Dominican Republic might even have deteriorated. He urged the representatives of the Dominican Republic not to return to the Committee with similarly evasive and unconvincing affirmations that there was no slavery in their country and that the provisions of the Covenant were strictly applied, since it was evident that working conditions in the Dominican Republic were worse than they had been for centuries.

23. Mr. LALLAH expressed concern at the lack of transparency in the Committee's dialogue with the Dominican Republic. Paragraph 4 of the report indicated that the Covenant and its Optional Protocol formed part of Dominican domestic legislation, yet it was apparent that the provisions of the Covenant were not well known in the country. In particular, he wished to know how the Dominican Republic viewed its obligations under the Covenant; whether its report had been drafted with the assistance of members of the legal profession; whether the judiciary was made aware of the country's obligations under the Covenant; and what would ensue when the representatives returned to their country and reported on their dialogue with the Committee.

24. The dialogue appeared to be hampered by a serious lack of communication, since it was being handled in the Dominican Republic as a foreign relations exercise and not by the appropriate bodies. Despite assertions by the delegation that the Ministry of Foreign Affairs had received no communications from the Committee, the Committee had evidence that it had submitted such communications to the Dominican authorities on several occasions. Unless such misunderstandings were cleared up, there could be no fruitful dialogue.

25. Mr. WENNERGREN asked what obligations were placed upon the Procurator-General, whose Office was the only central body for the protection of human rights, what resources were placed at his disposal and what initiatives he had undertaken with respect to the situation of human rights, particularly in the context of the repatriation operations carried out under Presidential Decree No. 233-91. Some police excesses during that operation had been admitted, but the massive scale of the operation was bound to have entailed widespread violations of the Convention and he wondered whether any remedial measures had been adopted.

26. According to article 55 of the Constitution, the President of the Republic was the head of the public administration and, by extension, had authority over the Procurator-General, that relationship could explain the lack of initiative on the part of the Procurator-General, as the repatriation had been ordered by presidential decree.

27. Mr. FODOR, speaking as Special Rapporteur on follow up to the views of the Committee, sought clarification on the case referred to in communication 193/1985. In particular, he wished to know whether it was only the delegation which had no information, or whether the State party itself had not received the views of the Committee. According to the documentation of the Secretariat, the Committee's views had been adopted on 20 July 1990 and two notes verbales had been sent by the Secretary-General to the State party, following that adoption, through the Permanent Representative of the Dominican Republic in Geneva. The first note verbale, transmitting the views of the Committee, had been sent on 5 September 1990 and the second, informing the State party of the appointment of the special rapporteur on follow-up and requesting information by 13 June 1991 on the measures adopted in relation to the views of the Committee, had been sent on 13 March 1991.

28. Mrs. ABREU de POLANCO (Dominican Republic) expressed serious concern about the issue raised by Mr. Fodor. It was not the practice of the Dominican Republic to ignore any observations by an international organization, and the authorities competent to deal with complaints of such a nature would normally have attended to the matter in question. As no communication appeared to have reached the competent authority, she wondered whether the case could be reopened and whether the Committee's recommendations could be resubmitted to the authorities of the Dominican Republic.

29. Mr. PICHARDO OLIVIER (Dominican Republic) said, in response to the concerns expressed by Mr. Prado Vallejo concerning possible abuses committed during the repatriation of Haitian workers, that the exercise had been carried out under Presidential Decree No. 233-91 and that the deportees had been permitted to take all or part of their personal possessions, in so far as transport facilities were available. Action had been taken against those guilty of perpetrating violations of human rights. He confirmed that the Presidential Decree had effectively been suspended and that there were no more repatriations, but he was unable to say whether it might be reinstated in the event of changing political circumstances in Haiti. He undertook to inform his authorities of the concerns expressed by the Committee in regard to the decree and assured members that steps would be taken to prevent any further violations should the decree be reinstated.

30. As to whether Haitians in the Dominican Republic could change their employment, he said that they were free to work where they wished. If they were recruited for a particular enterprise, they were obliged to work for that enterprise but could always break their contract, as often happened, and seek employment more appropriate to their skills and qualifications.

31. In response to the question by Mr. Mavrommatis concerning the status of the Covenant, he said that the provisions of the Covenant were applicable in the courts under Dominican legislation but that, owing to ignorance of those provisions on the part of victims and their legal representatives, there was no record of any sentence having been imposed on the basis of the Covenant. That notwithstanding, the Covenant was mandatory in the Dominican Republic and could be invoked in the courts.

32. Mrs. ABREU de POLANCO (Dominican Republic), referring to section I (a) of the list of issues, said that, although most lawyers did not invoke the

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Dominican Republic)

Covenant, they could do so since it was part of the domestic law of her country. Those lawyers who were conversant with all the international covenants did invoke them for the benefit of their clients. Recently, the situation regarding the observance of human rights had been acceptable. Human rights committees and non-governmental organizations had not been carrying out any kind of activities to make people aware of the Covenant. As far as the civil rights situation was concerned, under article 9 of her country's Constitution, foreigners were forbidden to participate in political activities. They were entitled to the same rights as citizens of the Dominican Republic as far as other basic rights under the Covenant, such as the right to free speech, worship, and social rights, were concerned. The only contradiction was with articles 82 and 84 of the Civil Code, which allowed foreigners to be part of the government of municipalities, which in fact meant that they had to belong to a political party.

33. With regard to the points raised concerning Presidential Decree No. 233-91, she said that the Procurator-General was, indeed, appointed by the Executive, but since the President was firmly in favour of protecting and guaranteeing human rights, the Procurator-General would at no time fail to observe the application of the law because the Decree concerned the repatriation or deportation of Haitians without documents. The police and army officers who had committed abuses had been suspended. They would be brought to trial and punished according to the gravity of their offences.

34. Mr. PICHARDO OLIVIER (Dominican Republic) said that Mr. Bruni Celli was partly correct implying that the identity documents issued by the State-run sugar company to Haitian workers permitted them to remain in the country legally for an indefinite period because workers under contract to the company were given the identity documents as agricultural workers for the duration of their contract. Haitians usually entered the Dominican Republic illegally without any papers at all, particularly since the situation in Haiti with regard to civil registration was very poor and a large proportion of the population did not even have national identity papers. The worker identification documents issued under the State-run sugar company's contracts were respected by the immigration and police authorities because, under the labour laws and the Constitution, contracts could be drawn up for temporary workers under those conditions. It was assumed that once a contract had expired, the person concerned would return home or legalize his situation under the appropriate immigration laws. The document could not be used as a residence permit.

35. The influx of Haitians continued and the Dominican authorities had decided, as a humanitarian gesture, not to exercise any kind of action against them because, if the appropriate immigration laws were applied strictly, and they were returned to Haiti, it would put an enormous strain on the Haitian State. Some Haitians had even been given the status of refugees in accordance with the relevant United Nations convention.

36. Contrary to what Mr. Aguilar had implied, his Government was not justifying the exploitation of Haitian workers in the sugar industry; in fact it condemned such exploitation as a violation of the provisions of the Covenant. The

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(Mr. Pichardo Olivier,
Dominican Republic)

Government did not know why such violations occurred and Decree No. 417-90 had been adopted precisely to protect the rights of workers.

37. The Dominican Republic had not violated the embargo against Haiti as a way of helping the military Government; on the contrary, it had observed it. The frontier between the two countries was difficult to control and Haitians crossed the frontier illegally to make purchases in the Dominican Republic; that was a normal phenomenon between two countries with a common land frontier. His Government had even requested international organizations to provide humanitarian assistance in the form of food to Haiti, and the food that had been sent at the request of international organizations such as the Red Cross and the United Nations.

38. Mr. Ando resumed the Chair.

Right to life, liberty and security of persons; treatment of prisoners and other persons deprived of liberty; right to a fair trial (articles 6, 7, 9, 10 and 14 of the Covenant) (section II of the list of issues)

Freedom of movement and expulsion of aliens; freedom of religion, assembly and association; equality of sexes and protection of the family; right to take part in the conduct of public affairs; and rights of persons belonging to minorities (articles 3, 12, 13, 18, 21, 22, 23, 24, 25, 26 and 27 of the Covenant) (section III of the list of issues)

39. The CHAIRMAN read out section II of the list of issues concerning the third periodic report of the Dominican Republic, namely: (a) the rules and regulations governing the use of firearms by the police and security forces, any violations of those rules and regulations and measures taken to prevent their recurrence; (b) measures taken by the authorities to ensure strict observance of article 7 of the Covenant and the admissibility before the courts of confessions or testimony obtained under duress; (c) the risk of being punished by suspension from duty without pay for up to 30 days as a deterrent for officials who resorted to torture; (d) information on the powers of the Directorate General of Prisons in the matter of supervision of penal establishments, and independent bodies, if any, empowered to visit places of detention and to receive complaints; (e) additional information on any problems and difficulties in observing the limitation of the period of police custody to 48 hours and in allowing lawyers to see their clients; (f) information on any plans to amend the rules on the prevention of liberty to guarantee the prompt notification of a person's family upon his arrest; (g) the outcome of the study aimed at entrusting the appointment of judges to a judicial council independent of the executive and legislative powers; (h) information on the possibility of accused persons obtaining free legal assistance and the assistance of an interpreter.

40. He next read out section III of the list of issues, namely: (a) the suspensive effect, if any, of appeals against expulsion orders and statistics on the number of expulsions each year and the grounds on which they were ordered; (b) any measures that the Government planned to take with respect to the religious sects mentioned in paragraphs 89 to 90 of the report; (c) the actual

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(The Chairman)

situation with regard to equality of men and women at work and in respect of participation in the conduct of public affairs; (d) the reasons why the proposed new Labour Code did not recognize the right to strike of civil servants; (e) the conformity with article 25 of the Covenant of the provisions denying to members of the police and the armed forces the right to vote and to be elected; (f) the implementation of article 27 of the Covenant in the Dominican Republic in the light of the statement in paragraph 116 of the report that there were no ethnic, religious or linguistic minorities.

41. Mrs. ABREU de POLANCO (Dominican Republic), referring to section II (a) of the list of issues, said that the use of firearms was governed by Act No. 36. Members of the armed forces, the police and some high-ranking civil servants were authorized to carry firearms. Many private individuals could also obtain permits for firearms provided they met the requirements set out in the relevant act. As a result of recent violations and some unfortunate incidents, efforts had been stepped up to disarm civilians and the rules governing the granting of permits for firearms had been tightened.

42. With respect to section II (b), both the Penal Code and the Constitution prohibited torture, and lawyers reported the matter to judges when confessions were obtained under duress in order to ensure that they would not be admissible before the courts. Allegations of torture in prison were investigated and those found to be responsible were put on trial and punished under the relevant Code. The Directorate General of Prisons had been established under Act No. 224 of 1984 to exercise greater oversight and to ensure that all the Standard Minimum Rules were observed in the protection of prisoners. Many non-governmental organizations had also been evaluating and monitoring the conditions of prisoners. A commission on prison reform, headed by the Cardinal and made up of prominent personalities, had noted the shortcomings of the prison system and, as a result, prisons had been built in various parts of the country to meet modern prison standards.

43. Concerning section II (e), with a few exceptions, no difficulties had been experienced in observing the limitation of the period of police custody to 48 hours and in allowing lawyers and family members to see detainees. She pointed out that the Dominican Republic had once been under a military dictatorship and that members of the armed forces still showed traces of that mentality. There might be some abuses in exceptional cases, depending on the gravity of the crime committed.

44. With regard to section II (g) of the list of issues, a preliminary draft had been submitted to the Legislature on the establishment of a Judicial Council, which, through a commission made up of the President of the Senate and deputies, would appoint the judges. That would allow judges greater independence in the exercise of their duties and should lead to a more independent judiciary.

45. Concerning section II (h) of the list of issues, articles 221 and 263 of the Code of Criminal Procedure established that persons who could not afford to pay for such services were given free legal assistance and the assistance of an interpreter.

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Dominican Republic)

46. Referring to section III of the list of issues she confirmed that appeals could be made against expulsion orders (section III (a)) and said that certain religious sects had been using radio and television programmes to speak negatively about other religions (section III (b)). Although Roman Catholicism was the State religion of the Dominican Republic, freedom of worship was guaranteed by the Constitution. The authorities could intervene only when the activities of a particular sect or religion threatened the integrity of the State.

47. With regard to section III (c), she noted that the legislation and Constitution of the Dominican Republic mentioned Dominicans of both sexes. Everyone had equal rights before the law to employment. Women played a very substantial role in the life of the country; for instance, there were women Ministers and women made up over 60 per cent of the staff of banks, the public administration and the judiciary.

48. Concerning section III (d), the new Labour Code did not prohibit the right to strike of civil servants. However, the State, as the provider of certain essential services to the community, had to ensure that the community received those services and therefore, people working in key Government utilities such as water and electricity corporations were not allowed to strike. Other public servants, such as doctors, nurses and transport workers regularly went on strike.

49. With respect to section III (e), the current legislation prohibiting members of the armed forces from involvement in political activity was not an absolute ban. Those wishing to enter politics first had to resign from armed forces and then wait a year before embarking on their new career. She was sure that in the new amendments to the 1966 Constitution currently being debated by the political parties and the general public, those provisions, among others, would be changed.

50. As for section III (f), there was no special legislation concerning ethnic minorities because there were really no such minorities in the Dominican Republic. Haitians were the largest group of foreign nationals and they, like other foreigners, enjoyed the same rights as Dominicans under article 8 of the Constitution.

51. Mr. PRADO VALLEJO observed that it appeared, unfortunately, that the Government of the Dominican Republic was unable to control its National Police. He cited three specific cases in which the police had ignored judicial orders - and even repeated judicial orders - for the release of innocent students, one of whom had later died in custody as a result of torture. In that instance, which had caused a national scandal, the police officer in question had been identified but had never been punished. A 1991 report on human rights in the Dominican Republic by the United States Department of State referred to 27 similar cases of police detention of prisoners in defiance of the courts. It also stated that large numbers of people were routinely rounded up and detained in police sweeps, a practice that had been strongly criticized by the Attorney-General of the Dominican Republic, members of the Legislature and the Archbishop, who had charged that the police were indiscriminate and abusive in

(Mr. Prado Vallejo)

carrying out the sweeps. Maltreatment by the police, even including torture, seemed to be common in the Dominican Republic, and he wondered what the Government planned to do to make its police force respect the rule of law and the human rights of its citizens, and to punish those guilty of such offences. Suspension without pay for up to 30 days (para. 46 of the report), was very light punishment indeed for the crime of torture.

52. Although paragraph 55 of the report indicated that the Constitution stipulated a 48-hour time-limit for detention in police custody for purposes of investigation or interrogation, that time-limit was not always observed in practice, according to paragraph 57. Similarly, the remedy of habeas corpus was discussed in paragraph 59, but according to paragraph 61 it was not always applied. He wondered what could be done to remedy those serious violations of human rights.

53. Referring to section III of the list of issues, and specifically the right of assembly and the right to form trade unions, he cited a report of the International Labour Organisation (ILO) regarding abrupt dismissals of Dominican trade union members on 11 November 1990 in order to bar them from union activities. Repression of trade unionists was particularly prevalent in the economic free zones in the country. According to the ILO report, the President of the Dominican Republic had defended such dismissals and said that they would continue.

54. With regard specifically to the situation of Haitians employed in the Dominican Republic, a change of attitude on the part of the Government was essential.

55. On the matter of freedom of religion, the fact that the Penal Code safeguarded the practice of the Catholic religion or "one of the religions tolerated in the Republic" (para. 87 of the report) did not seem to satisfy the requirements of genuine freedom of religion. He would also like more information on the religious sects referred to in paragraph 90; specifically what form the coercion took, how such sects were a threat to the population, and exactly what they were preaching that was so dangerous.

56. Mr. SADI, noting that parts of the report had been so poorly translated into English as to be virtually incoherent, wondered whether the reference in article 260 of the Penal Code to the other religions "tolerated" in the Dominican Republic might be one such instance of mistranslation. Paragraph 87 of the report cited safeguards specifically for the Catholic religion under articles 261 and 262 of the Penal Code, and he wondered whether other religions had equal protection.

57. With regard to section II (b) of the list of issues, he asked whether any of the known cases of torture had actually been investigated, and if so, how many, and to what effect. He agreed that suspension without pay for 30 days for the crime of torture (sect. II (c)) was, indeed, too light a punishment; but he found it even worse that under the Dominican Penal Code any public official acting on orders from a superior was exempt from punishment (para. 17 of the

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(Mr. Sadi)

report), a principle that was contrary both to customary law and to the Covenant.

58. Concerning section II (e) of the list of issues, it was not clear whether it was automatic for a suspect to be either released from custody or imprisoned after the 48-hour time-limit stipulated in the Constitution had elapsed, or whether a special judicial procedure was required. If, indeed, over 70 per cent of the prison population in the Dominican Republic was being held pending trial (para. 58 of the report), it was difficult to see how the 48-hour time-limit could be respected; indeed, the United States Department of State report referred to cases of illegal and prolonged detention.

59. With reference to section III of the list of issues, the punishment of exile stipulated in article 85 of the Penal Code (para. 66 of the report) did not seem to be in keeping with the Covenant, and he wondered if it applied only to aliens.

60. Regarding article 23 of the Covenant, the Dominican Civil Code, by granting exclusive right of custody over a natural child to the father (para. 105 of the report), did not appear to guarantee equal parental rights to both spouses, as claimed. Similarly, paragraph 108 of the report seemed to be an admission that some of the legislation in force did, in fact, violate article 24 of the Covenant.

61. Mr. El-Shafei, Vice-Chairman, resumed the Chair.

62. Mr. POCAR said that the whole purpose of having the Committee transmit to the States parties, well in advance, a list of the issues it wished delegations to discuss when their countries' reports were considered was to enable delegations to come prepared with adequate, detailed answers and to address all the concerns raised. It was regrettable that that was not the case with the delegation of the Dominican Republic. Indeed, many issues in sections II and III of the list had not been touched upon at all, and some of the comments made, for instance, on sections II (a) and II (b), had not been altogether to the point.

63. Perhaps the Dominican delegation was under the misapprehension that the information that had been provided three years earlier in the Dominican Republic's second periodic report sufficed. In that earlier report, it had been claimed that all public officials accused of crimes would be dismissed, investigated, and punished if guilty, in order to safeguard the human rights of citizens. According to independent evidence in the report by the United States Department of State, in 1991 alone, 2,218 policemen had been fired or retired for offences ranging from insubordination to murder. He had never seen such a high figure given for police abuse in any country and he wondered how that information could be reconciled with the duty of the Dominican Government to train its police and public officials properly and to instil in them an awareness that international standards of human rights must be upheld. As to the assertion in the second periodic report that officials guilty of such abuses were brought immediately to trial and sentenced, the three cases cited by Mr. Prado Vallejo from independent sources showed that the punishment was

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(Mr. Pocar)

neither immediate nor effective. He himself could cite an additional instance of two officers charged with beating and seriously injuring a professor during detention: one of the officers had subsequently been promoted to captain, and there was no indication that the other had been disciplined in any way. He also cited a specific case of a Haitian who had been found dead in the Boca Chica police station; the officer guilty of the murder had been dismissed but no further legal action had been taken against him. If all such independent information was indeed accurate, the Dominican Republic had clearly taken a step backwards in the matter of human rights.

The meeting rose at 1 p.m.